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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

DELGIZZI, R

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 02/28/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/520,382

Applicant(s)

NEWBOLD ET AL.

Examiner

DELGIZZI

Group Art Unit

2875

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on MARCH 8, 2000
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-41 is/are pending in the application.
- Of the above claim(s) NONE is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1-41 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☒ The drawing(s) filed on MARCH 8, 2000 are objected to by the Examiner
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "138" (is not in Fig 3) (Spec p 11, line 1). Correction is required.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "130a, 132a, 134a" (are not in Fig 3) (Spec p 12, line 11) and "130b" (Spec p 12, line 20). Correction is required.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Fig 3 contains parts #146, 112, 135, 30a, and 30b. Correction is required.

### ***Specification***

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
5. The following title is suggested: "Cube-Shaped, Fire-Resistant Lighting Assembly for Recessed Ceiling Mounting".

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 1-41 are rejected under 35 USC 102 (e) as anticipated by MONSON ET AL.
9. Regarding Claim 1, MONSON ET AL. discloses (Col 1, lines 5-9) & (Figs 1 & 4-6) a fire assembly adapted to be installed into a floor-ceiling assembly, said fire assembly comprising:
  - a recessed light fixture comprising a lamp capable of distributing light (Col 2, lines 3-6);
  - a housing substantially enclosing said recessed light fixture such that said housing and said recessed light fixture form an integral structure, said housing comprising at least one generally fire resistant material (Col 2, lines 10-19 & 39-46), wherein said fire assembly is configured to be positioned above a surface opening defined by said floor-ceiling assembly such that said housing is in substantial continuation with said floor-ceiling assembly (Figs 1, 4-6).
10. Regarding Claim 2, MONSON ET AL. discloses and shows a fire assembly as defined in claim 1, wherein said floor-ceiling assembly has a fire rating (Col 4, lines 43-45), and wherein said housing is capable of substantially maintaining said fire rating after installation.
11. Regarding Claim 3, MONSON ET AL. discloses and shows a fire assembly as defined in claim 1, wherein said housing comprises a cube-shaped box (Figs 1-6), said cube-shaped box comprising a plurality of generally fire-resistant walls (Col 3, lines 59-64, Note: "...sheet metal.." is "generally fire-resistant").
12. Regarding Claim 4, MONSON ET AL. discloses and shows a fire assembly as defined in claim 3, wherein said cube-shaped box further comprises a bottom wall, said bottom wall defining a bottom wall opening such that said bottom wall opening substantially corresponds to said surface

opening when positioned thereabove (Figs 1-6).

13. Regarding Claim 5, MONSON ET AL. discloses and shows a fire assembly as defined in claim 1, wherein said at least one generally fire resistant material is selected from the group consisting of dry wall, plaster, and combinations thereof (Col 2, lines 39-45) & (Col 4, lines 35-45).

14. Regarding Claim 6, MONSON ET AL. discloses and shows a fire assembly as defined in claim 1, wherein said housing further comprises a support structure, said support structure comprising an aluminum housing (Note: "sheet metal" includes aluminum as a material) (Col 3, lines 59-64).

15. Regarding Claim 7, MONSON ET AL. discloses and shows a fire assembly as defined in claim 3, wherein at least one of said generally fire resistant walls comprises more than one layer (Col 4, lines 35-45).

16. Regarding Claim 8, MONSON ET AL. discloses and shows a fire assembly as defined in claim 7, wherein at least one of said layers comprises aluminum (Note: "...sheet metal" includes aluminum) (Col 3, lines 59-64).

17. Regarding Claim 9, MONSON ET AL. discloses and shows a fire assembly as defined in claim 7, wherein at least one of said layers comprises dry wall (Note: "...cementitious..." includes "drywall") (Col 2, lines 39-45) & (Col 4, lines 35-45).

18. Regarding Claim 10, MONSON ET AL. discloses and shows a fire assembly as defined in claim 1, further comprising a support structure, said support structure being connected to said housing and said recessed light fixture such that said housing, said recessed light fixture, and said support structure form said integral structure (Figs 1-6).

19. Regarding Claim 11, MONSON ET AL. discloses and shows a fire assembly as defined in

claim 10, wherein said support structure is mechanically affixed to said housing and said recessed light fixture (Fig 1) .

20. Regarding Claim 12, MONSON ET AL. discloses and shows a fire assembly as defined in claim 1, further comprising a junction box, said junction box being placed in electrical communication with said lamp of said recessed lighting fixture (Fig 1) (Col 2, lines 59-63).

21. Regarding Claim 13, MONSON ET AL. discloses and shows a fire assembly as defined in claim 12, further comprising at least one conduit (Fig 6)(16) extending from said junction box, said at least one conduit being capable of electrically coupling said recessed light fixture to at least one other light fixture (Fig 1) (Col 2, lines 59-63).

22. Regarding Claim 14, MONSON ET AL. discloses and shows a fire assembly as defined in claim 13, wherein said junction box is contained within said housing, said at least one conduit (Fig 4)(16) extending from said junction box through a hole (Fig 4)(44) defined by a wall of said housing such that said at least one conduit is capable of electrically coupling said recessed light fixture to at least one other light fixture (Col 2, lines 59-63).

23. Regarding Claim 15, MONSON ET AL. discloses and shows a fire assembly as defined in claim 4, wherein said bottom wall comprises a portion extending beyond the intersection of said bottom wall and one of said plurality of side walls, said portion having an upper and lower surface and wherein said junction box is positioned on said upper surface of said portion (Figs 4-6).

24. Regarding Claim 16, MONSON ET AL. discloses and shows a fire assembly as defined in claim 4, wherein a gasket (Fig 4)(32,34, 36, and 38) (Col 4, lines 21-24) is positioned between said bottom wall and said structural surface, said gasket comprising a gasket opening corresponding to

said bottom wall opening and said surface opening.

25. Regarding Claim 17, MONSON ET AL. discloses and shows a fire assembly as defined in claim 3, wherein one of said plurality of generally fire resistant walls includes a door (Fig 4)(44) (Note: "...hole..." includes "door").

26. Regarding Claim 18, MONSON ET AL. discloses and shows a fire assembly as defined in claim 1, further comprising an attachment structure (Fig 4) (60 & 12) connected to said fire assembly, said attachment structure being configured to attach said fire assembly to said floor ceiling assembly.

27. Regarding Claim 19, MONSON ET AL. discloses and shows a fire assembly as defined in claim 18, wherein said attachment structure comprises a bar hanger (Fig 4)(12 & 60).

Note: Claims 20-41 recite limitations anticipated by MONSON ET AL. and addressed in Claims 1-19 above.

28. Regarding Claim 20, MONSON ET AL. discloses and shows a fire assembly adapted to be installed into a floor-ceiling assembly, said fire assembly comprising:

- a recessed light fixture comprising a lamp capable of distributing light;
- a generally fire-resistant housing substantially enclosing said recessed light fixture

such that said generally fire-resistant housing and said recessed light fixture form an integral structure, said generally fire-resistant housing comprising a plurality of side walls and a top wall, said plurality of side walls and said top wall comprising at least one generally fire-resistant material, wherein said fire assembly is configured to be positioned above a surface opening defined

by said floor-ceiling assembly such that said generally fire resistant housing is in substantial continuation with said floor-ceiling assembly; and a support structure positioned in between said recessed light fixture and said generally fire resistant housing.

29. Regarding Claim 21, MONSON ET AL. discloses and shows a fire assembly as defined in claim 20, wherein said generally fire-resistant housing further comprises a bottom wall, said bottom wall defining a bottom wall opening such that said bottom wall opening substantially corresponds to said surface opening when positioned thereabove.

30. Regarding Claim 22, MONSON ET AL. discloses and shows a fire assembly as defined in claim 20, wherein at least one of said plurality of side walls comprises a material selected from the group consisting of dry wall, plaster, and combinations thereof.

31. Regarding Claim 23, MONSON ET AL. discloses and shows a fire assembly as defined in claim 20, wherein said support structure comprises an aluminum housing.

32. Regarding Claim 24, MONSON ET AL. discloses and shows a fire assembly as defined in claim 20, wherein said at least one generally fire resistant material is selected from the group consisting of dry wall, plaster, and combinations thereof.

33. Regarding Claim 25, MONSON ET AL. discloses and shows a fire assembly as defined in claim 20, further comprising at least one conduit extending from a junction box through a hole defined by one of said walls of said fire-resistant housing, said at least one conduit being capable of electrically coupling said recessed light fixture to at least one other light fixture.

34. Regarding Claim 26, MONSON ET AL. discloses and shows a fire assembly as defined in claim 20, wherein one of said plurality of side walls includes a door.



35. Regarding Claim 27, MONSON ET AL. discloses and shows a fire assembly adapted to be installed into a floor-ceiling assembly, said fire assembly comprising:

a recessed light fixture comprising a lamp capable of distributing light;

a support structure connected to said recessed light fixture; and

a generally fire-resistant housing substantially enclosing said recessed light fixture and connected to said support structure such that said generally fire-resistant housing, said support structure, and said recessed light fixture form an integral structure, said generally fire-resistant housing comprising a plurality of side walls, a top wall, and a bottom wall, said plurality of side walls and said top wall comprising at least one generally fire-resistant material, wherein said fire assembly is configured to be positioned above a surface opening defined by said floor-ceiling assembly such that said generally fire-resistant housing is in substantial continuation with said floor-ceiling assembly, said bottom wall of said generally fire resistant housing defining a bottom wall opening such that said lamp of said recessed light fixture can distribute light through said bottom wall opening and said surface opening when positioned thereabove.

36. Regarding Claim 28, MONSON ET AL. discloses and shows a fire assembly as defined in claim 27, wherein said at least one generally fire resistant material is selected from the group consisting of dry wall, plaster, and combinations thereof.

37. Regarding Claim 29, MONSON ET AL. discloses and shows a fire assembly as defined in claim 27, wherein said bottom wall comprises a material selected from the group consisting of dry wall, plaster, and combinations thereof.

38. Regarding Claim 30, MONSON ET AL. discloses and shows a fire assembly as defined in

claim 27, wherein said support structure comprises on aluminum housing.

39. Regarding Claim 31, MONSON ET AL. discloses and shows a fire assembly as defined in claim 27, wherein said support structure comprises a metal enclosure.

40. Regarding Claim 32, MONSON ET AL. discloses and shows a fire assembly as defined in claim 27, wherein a gasket is positioned between said bottom wall and said structural surface, said gasket comprising a gasket opening corresponding to said bottom wall opening and said surface opening.

41. Regarding Claim 33, MONSON ET AL. discloses and shows a fire assembly as defined in claim 27, wherein one of said plurality of side walls includes a door.

42. Regarding Claim 34, MONSON ET AL. discloses and shows a fire assembly adapted to be installed into a floor-ceiling assembly, said fire assembly comprising:

an enclosed housing made from a generally fire resistant material, said housing defining an opening, said housing having a shape configured to receive a recessed light fixture therein, said opening of said enclosed housing being configured to mate with a corresponding surface opening defined by a floor ceiling assembly such that said housing is in substantial continuation with said floor-ceiling assembly and wherein, once said fire assembly is installed, said floor-ceiling assembly has a fire rating at least equal to the fire rating of an identical floor-ceiling assembly not containing the fire assembly (Col 4, lines 35-65).

43. Regarding Claim 35, MONSON ET AL. discloses and shows a fire assembly as defined in claim 34, wherein said enclosed housing is made from a material consisting the group consisting of drywall, plaster and combinations thereof.

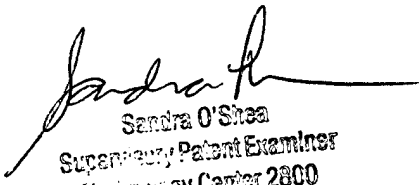
44. Regarding Claim 36, MONSON ET AL. discloses and shows a fire assembly as defined in claim 34, wherein said enclosed housing is in the shape of a box.
45. Regarding Claim 37, MONSON ET AL. discloses and shows a fire assembly as defined in claim 34, wherein said enclosed housing has a cylindrical shape.
46. Regarding Claim 38, MONSON ET AL. discloses and shows a fire assembly as defined in claim 34, further comprising a support structure connected to the interior surfaces of said enclosed housing.
47. Regarding Claim 39, MONSON ET AL. discloses and shows a fire assembly as defined in claim 38, wherein said support structure comprises an aluminum housing.
48. Regarding Claim 40, MONSON ET AL. discloses and shows a fire assembly as defined in claim 34, further comprising an attachment structure connected to said enclosed housing, said attachment structure being configured to attach said enclosed housing to said floor-ceiling assembly.
49. Regarding Claim 41, MONSON ET AL. discloses and shows a fire assembly as defined in claim 40, wherein said attachment structure comprises a bar hanger.

***Conclusion***

50. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald E. DelGizzi, Mon-Thurs, 0730 to 1800 EST at (703) 305-0648, or to Sandra O'Shea, Supervisory Patent Examiner, Mon-Fri, at (703) 305-4939, or to the receptionist at (703) 308-0956 (phone) or at either fax # (703) 305-3431 or fax # (703) 308-7724.

rdg

Feb 24, 2001

  
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